

Remarks

Claims 1-25 were pending in the application. Claims 1-25 were rejected. By the foregoing amendment, claims 19-25 are canceled, claims 1, 8, and 9 are amended, and claim 26 is added. No new matter is presented.

The foregoing amendments add compositional parameters from former claim 8 and paragraph 0029 of the present PGPub.

Claim Rejections-35 U.S.C. 103

Claims 1-25 were rejected under 35 U.S.C 103(a) as being unpatentable over Schaeffer et al. (US5843586) in view of Wukusick et al. (US6074602) and further in view of Applicants' disclosure of the prior art. Applicants respectfully traverse the rejection.

The Office action cited *In re Malagari*, 182 USPQ 549 (CCPA 1974). *Malagari* may be distinguished on several grounds:

1. *Malagari* made no “showing that the art in any material respect taught away from the use of the carbon range claimed.” 182 USPQ at 553.
2. *Malagari* dealt with a range of a single element not a combination of ranges. This multi-dimensional aspect attenuates the relevance (at least where the ranges of more than one of the components are only partially overlapping).
3. *Malagari* lacked the extreme further attenuation of the multi-level teaching combinations of the present case.

Regarding item 1, the Office action improperly cited only the broadest claim ranges of Wukusick et al. Wukusick et al. contained several levels of more specific teachings that teach away from presently claimed combinations. Particularly, Wukusick et al. claims 2 and 3, respectively, and Table I teach “preferred” ranges and a “most preferred” composition. These are instructive. The most preferred W content is outside the present claim 8 range. Even the broader “preferred” ranges do not individually overlap with the present claim 26 ranges for W, Cr, Co, Ta, and Al.

Regarding item 2, when ranges of multiple components are involved, there are

combination issues. Thus there might be various species of one invention wherein the concentration of a first component is within the claimed range for that component but a second is not and other species wherein the concentration of the second is within the claimed range and the first is not, while in no species are the claimed concentrations of both components present. There has been no showing to evidence the likely satisfaction of all claimed ranges for the various claims.

Regarding item 3, there are several levels of attenuation. the first is the prophetic, throw-in, nature of the suggestion for combustor panel use. Schaeffer et al. specifically describes blade use, but has a throw-in laundry list of other possible uses. The art's prevailing distinction between combustor panel alloys and blade alloys further emphasizes the attenuation teaching away noted above. The second is the link to Wukusick et al. to find more leniency in material than provided by the specific teachings of Schaeffer et al. Finally, both items 1 and 2 act as further attenuation.

The remaining assertions in the Office action amount to an improper "obvious to try" argument, especially as to replacement/reengineering claims and have not been adopted by intervening teachings.

Claims 1-25 were rejected under 35 U.S.C 103(a) as being unpatentable over Brown et al. (US5682747) in view of Applicants' disclosure of the prior art and Gell et al. (US4116723). Applicants respectfully traverse the rejection.

This rejection suffers from the same deficiencies noted above, but augmented by the hindsight nature of using Applicant's own teachings to choose a particular blade alloy for combustor panel use.

Claims 1-25 were rejected under 35 U.S.C 103(a) as being unpatentable over Gemma et al. (US4605452) in view of Schaeffer et al. and Gell et al. and further in view of Applicants' disclosure of the prior art. Applicants respectfully traverse the rejection.

This rejection suffers from the same deficiencies noted above, but augmented by further attenuation of the suggestion (lack thereof) for a specific blade alloy for combustor panel use.

Accordingly, Applicant submits that claims 1-18 and 26 are in condition for allowance. Please charge any fees or deficiency or credit any overpayment to our Deposit Account of record.

Respectfully submitted,

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